

## REMARKS

Claims 6-10, and 27-31 are pending in the present application.

This Amendment is in response to the Final Office Action mailed November 28, 2007.

In the Final Office Action, the Examiner rejected claims 6-10, 18-21, and 23-31 under 35 U.S.C. §103(a). In addition, the Examiner allowed claims 1-4. Applicant has amended claims 6 and 20 and canceled claim 10. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

During the Examiner's interview conducted on February 28, 2008, the Examiner tentatively conveyed to us that claim 6-9, 18-19, 27-29 appear to be in condition for allowance and claims 20-21, 23-26, and 30-31 are still under review.

### *Responses to Examiner's Arguments*

Applicant has amended claim 6 to further clarify that first non-transport mode is a mode where a user is listening to recorded material and the second non-transport mode is a mode where the user enters tracks to be mixed into an output device. Similarly, claim 12 has been amended to clarify that the mode is a mode where a user is listening to recorded material or where the user enters tracks to be mixed into an output device.

### *Rejection Under 35 U.S.C. § 103*

#### A. REJECTION OF CLAIMS 6-10 AND 27-31

In the Final Office Action, the Examiner rejected claims 6-10, and 27-31 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,608,807 issued to Brunelle ("Brunelle") in view of U.S. Patent No. 5,319,359 issued to Zampini et al. ("Zampini '359").

Zampini '359 merely discloses a dual colored LED whereby "the red light may indicate a device which is currently active and a green light may indicate a device which is either about to become active or which has just been deactivated" (Zampini '359, paragraph bridging columns 1 and 2, and R, G LEDs in Figure 2), not a first color output corresponding to a first non-transport mode of a corresponding track and a second color output corresponding to a second non-transport mode of the corresponding track, the first non-transport mode being a mode where a user is listening to recorded material and the second non-transport mode being a mode where the

user enters tracks to be mixed into an output device, as recited in claim 6. The color state of the LEDs in Zampini '359 identifies the activation states of the plurality of channels (Zampini '359, Paragraph bridging Col. 1 and 2). Zampini '359 merely indicates using LEDs which channel is being outputted (Zampini '359, col. 2, lines 31-33). Such activation states have no correspondence to the non-transport mode being a mode where a user is listening to recorded material or where the user enters tracks to be mixed into an output device.

Moreover, the Final Office Action alleges that column 4 (line 62) through column 5 (line 12) of Zampini '359 discloses “outputting a first color and a second color wherein the first color identifies that the system is operating in a first mode where the corresponding track is able to be mixed with other tracks and the second color identifies that the system is operating in a second mode where the corresponding track is associated with an output of recorded material.” (Final Office Action, page 3). *Applicants respectfully submit that it is impermissible to rely on the language in the claims as support for the teachings of Zampini '359.* The scope of a patent’s claims determines what infringes a patent; it is no measure of what it discloses. In re Benno, 768 F2d 1340, 226 USPQ 683, 686 (Fed. Cir. 1985). Thus, the rejection is impermissible. It is respectfully requested that the Examiner identify the specific areas in the specification where Zampini '359 describes those alleged limitations.

With respect to claims 30 and 31, given that neither Brunelle nor Zampini '359 discloses the limitation in claim 30 of *the fourth color output being an alternating combination of the first color output and the second color output*, Applicants respectfully submit that the invention as claimed is not obvious in light of the prior arts. *Emphasis added.*

With respect to independent claim 31, the limitation of *alternating blinking sequence of the first color output to indicate that the mode of the corresponding track is in a non-recording transport mode* is claimed. *Emphasis added.* Applicants respectfully disagree with the Examiner that, in Zampini '359, “the changing status or mode of the channel data would have inherently alternated the blinking sequence of the red LED and the green LED” (Final Office Action, page 6). In the invention at issue, alternating different colored light may indicate a transport mode and non-transport mode combination (Specifications, page 9). For example, when the transport is stopped and non-transport mode is in READY AUTO INPUT ON state, the indicator light blinks a first color and a second color in an alternating sequence. The alternating

sequence indicates that the system is ready to record or play, but the transport is currently stopped. The alternating blinking sequence also indicates that corresponding level meters are outputting the level of an input signal which is not being recorded (Specifications, page 9). Thus, the alternating sequence is designed to provide specific information concerning the non-recording transport mode. In contrast, the inherent alternated blinking from Zampini '359 does not provide information as to mode but rather is merely a result of activating and deactivating different channels.

In addition, based on the dependency of claims 7-10 and 27-29 on independent claim 6, believed by Applicants to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments in an Appeal if warranted. Withdrawal of the §103(a) rejection as applied to claims 7-10 and 27-29 is respectfully requested.

As a result, Applicants respectfully submit that the outstanding §103(a) rejection as applied to claims 6-10 and 27-31 be withdrawn.

B. REJECTION OF CLAIMS 18-19

In the Final Office Action, the Examiner rejected claims 18-19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. Brunelle in view of U.S. Patent No. 5,803,579 issued to Turnbull et al. ("Turnbull"). Applicants respectfully disagree with the rejection because a *prima facie* case of obviousness has not been established. Neither Brunelle nor Turnbull, alone or in combination, suggests an operation of determining a *type of transport movement* of the track in the multi-track recording system as well as indicating the *type of transport movement* of the track by illuminating a first light emitting diode disposed in a housing. *Emphasis added.*

Even in accordance with the Examiner's interpretation that the output meter (4) of Brunelle constitutes the first light emitting device (LED) and the instrumental indicator (18) of Brunelle constitutes the second LED, the claimed invention is not suggested by the combined teachings of the cited references. For instance, the teachings of the output meter (4) and the instrumental indicator (18) of Brunelle combined with the particular lighting pattern of two separate LED groupings of Turnbull would not result or even suggest lighting elements for indicating the *mode* of the track and/or type of transport movement. *Emphasis added.*

With respect to independent claim 18, Applicants respectfully disagree with the Examiner that Brunelle discloses *determining a transport movement of the track in the multi-track recording system* (Final Office Action, page 7). *Emphasis added.* The ID display panel 18 “provides the identification of each instrument or sound corresponding to the channel module in connection with each piece of music or sound recording being mixed” (Brunelle, col. 5, lines 37-39). Moreover, the ID display panel is programmable and “the identification information in the display panel 18 is changed as necessary and at any time” by the audio engineer (Brunelle, col. 5, lines 30-42). Thus, the ID display panel does not determine transport movement but rather it displays changeable programmed identification information, such as text to identify instrument type.

Similarly, the output meter 4 only indicates the level of audio sound for each channel module and does not perform any determination on transport movement (Brunelle, col. 4, 50-51).

Examiner states that Brunelle discloses *indicating the type of transport movement of the track by illuminating a first light emitting diode disposed in a housing* because the ID display panel 18 marks selective interconnection of different channels such that it is equivalent to the movement of different channels (Final Office Action, page 7). *Emphasis added.* Applicants respectfully disagree. Brunelle states that “the identification display panel 18 is used to namely mark each channel as an instrument or sound” whereas the routing control switch “is used for making selective interconnections between the input/output channel 2a and any of a number of secondary channels 3” (Brunelle, col. 4, lines 41-47). The mere marking of a channel as an instrument or sound by ID display panel 18 (Brunelle, col. 4, lines 45-47) does not disclose the limitation since it has no correspondence to the transport movement of the track as claimed.

For the same reasons set forth above, Applicants respectfully disagree that that “instrument indicator 18” discloses the limitation of *determining a mode of the track in the multi-track recording system* given that it merely marks a channel as an instrument or sound. *Emphasis added.*

Moreover, Applicants respectfully submit that the LED groupings of Turnbull feature complementary LED lighting that, when combined, produces white light that can be used for a number of applications such as an automotive maplight. The white light is used strictly for illumination, and is not used for indicating a mode of a track in the multi-track recording system

as claimed. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. *See In re Mills, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).*

In addition, based on the dependency of claim 19 on independent claim 18, believed by Applicants to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments in an Appeal if warranted. Withdrawal of the §103(a) rejection as applied to claims 19 is respectfully requested.

As a result, Applicants respectfully submit that the outstanding §103(a) rejection as applied to claims 18-19 be withdrawn.

#### C. REJECTION OF CLAIM 20

In the Final Office Action, the Examiner rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over Zampini '359. Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established since Zampini '359 does not describe or suggest the limitation of the monitored status indicates both (i) a type of transport movement indicating one of a group comprising a plurality of simulated functions including Play, Reverse Play, Fast Forward, Rewind, Stop, and Record and (ii) a mode of the one corresponding track, *the mode being a mode where a user is listening to recorded material or where the user enters tracks to be mixed into an output device. Emphasis Added.*

As argued above, Zampini '359 merely indicates using LEDs which channel is being outputted (Zampini '359, col. 2, lines 31-33). Such activation states have no correspondence to a mode where a user is listening to recorded material or where the user enters tracks to be mixed into an output device.

Hence, Applicants respectfully submit that the outstanding §103(a) rejection as applied to independent claim 20 be withdrawn.

#### D. REJECTION OF CLAIM 23

In the Final Office Action, the Examiner rejected claim 23 under 35 U.S.C. §103(a) as being unpatentable over Zampini '359 as applied to claim 20 above in view of U.S. Patent No. 5,444,789 issued to Zampini et al. ("Zampini '789"). Applicants respectfully traverses the rejection because a *prima facie* case of obviousness has not been established since Zampini '789

fails to disclose the limitation *the mode of the track indicates one of a group comprising Read Auto Input On, Ready Auto Input Off, Monitor, Slip Channels, Located Edits, and Input/Output Gain Adjustment. Emphasis added.*

The Examiner states that “Zampini ‘789 discloses a mixer device with a LED which automatically lit during monitoring, thereby indicating that the line out channels are being monitored” (Final Office Action, page 9). Although Zampini ‘789 LEDs indicate that channels are being monitoring, it does not in turn disclose the mode of the track to be one of *Read Auto Input On, Ready Auto Input Off, Monitor, Slip Channels, Located Edits, and Input/Output Gain Adjustment.*

In addition, based on the dependency of claim 23 on independent claim 20, believed by Applicants to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments in an Appeal is warranted. Withdrawal of the §103(a) rejection as applied to claims 23 is respectfully requested.

Hence, Applicants respectfully submit that the outstanding §103(a) rejection as applied to claim 23 be withdrawn.

#### E. REJECTION OF CLAIM 26

In the Final Office Action, the Examiner rejected claim 26 under 35 U.S.C. §103(a) as being unpatentable over Zampini ‘359 as applied to claim 20 above in view of Brunelle. Applicants respectfully traverse the rejection. However, it is noted that claim 26 is dependent on claim 20, which Applicants believe is in condition for allowance. Therefore, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments in an Appeal is warranted.

Withdrawal of the §103(a) rejection as applied to claims 23 is respectfully requested.

#### F. REJECTION OF CLAIM 21, 24, and 25

In the Final Office Action, the Examiner rejected claims 21, 24, and 25 under 35 U.S.C. §103(a) as being unpatentable over Zampini ‘359 as applied to claim 20 above in view of Brunelle, and further in view of Turnbull. Applicants respectfully traverse the rejection.

As discussed above, Turnbull merely discloses a white light used strictly for illumination, and not used for indicating *a mode of the one corresponding track* as claimed.

Moreover, with respect to claims 21, 24 and 25, these claim sets are dependent on independent claim 20, respectively. Applicants believe that claims 20 is in condition for allowance as noted above. Therefore, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments if an Appeal is warranted.

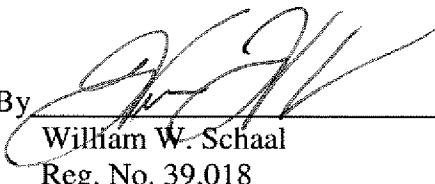
Hence, Applicants respectfully submit that the outstanding §103(a) rejection as applied to claims 21, 24, and 25 be withdrawn.

***Conclusion***

In view of the remarks made above, it is respectfully submitted that pending claims 6-10 and 18-21 and 23-31 define the subject invention over the prior art of record. Thus, Applicant respectfully submits that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

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